

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 395 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 1. IC 4-15-10-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
5 chapter:

6 "Agency" means any state administration, agency, authority, board,
7 bureau, commission, committee, council, department, division,
8 institution, office, service, or other similar body of state government
9 created or established by law. However, the term does not include **the**
10 **following:**

11 **(1) State colleges and universities.**

12 **(2) The bureau of motor vehicles commission, unless the**
13 **bureau of motor vehicles commission has decided to be under**
14 **the jurisdiction and rules adopted by the state ethics**
15 **commission, as provided in IC 9-15-2-2.2(a)(2).**

16 "Appointing authority" means the individual or group of individuals
17 who have the power by law or by lawfully delegated authority to make
18 appointment to a position in an agency.

19 "Employee" means an employee of an agency except an elected
20 official.

21 "Supervisor" means an individual who oversees the daily activity of
22 an employee."

23 Page 2, between lines 23 and 24, begin a new paragraph and insert:

1 "SECTION 6. IC 9-13-2-176.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 176.5. "Supervisor", for purposes of**
4 **IC 9-15-2, has the meaning set forth in IC 9-15-2-0.5.**

5 SECTION 7. IC 9-15-2-0.5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON
7 PASSAGE]: **Sec. 0.5. As used in this chapter, "supervisor" means**
8 **an individual who oversees the daily activity of an employee.**

9 SECTION 8. IC 9-15-2-3 IS ADDED TO THE INDIANA CODE AS
10 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON
11 PASSAGE]: **Sec. 3. (a) If the commission has established a code of**
12 **ethics for its employees under section 2.2(a) of this chapter, an**
13 **employee of the commission may submit a written report to the**
14 **employee's supervisor or a commission employee with authority**
15 **greater than the employee's supervisor concerning the existence**
16 **of a violation of a federal law or regulation, a violation of a state**
17 **law or rule, a violation of an ordinance of a county or municipality**
18 **(as defined in IC 36-1-2-11), or the misuse of public resources.**
19 **However, if:**

20 (1) **the employee believes that the supervisor and the**
21 **commission employee with authority greater than the**
22 **employee's supervisor are committing a violation or misusing**
23 **public resources; or**

24 (2) **the employee reports the suspected violation or misuse to**
25 **the supervisor or commission employee with authority**
26 **greater than the employee's supervisor and a good faith**
27 **effort is not made to correct the problem within a reasonable**
28 **time;**

29 **the employee may submit a written report of the violation or**
30 **misuse to any person, agency, commission, or organization.**

31 **(b) If an employee submits a report under subsection (a), the**
32 **employee may not:**

33 (1) **be dismissed from employment;**

34 (2) **have salary increases or employment related benefits**
35 **withheld;**

36 (3) **be transferred or reassigned;**

37 (4) **be denied a promotion the employee otherwise would have**
38 **received; or**

39 (5) **be demoted;**

40 **solely for submitting the report.**

41 **(c) Notwithstanding subsections (a) and (b), an employee must**
42 **make a reasonable attempt to ascertain the accuracy of any**
43 **information submitted in a report and may be subject to**

1 disciplinary actions, including suspension or dismissal, for
 2 knowingly furnishing false information, as determined by the
 3 employee's supervisor.

4 (d) An employee disciplined under subsection (c) may appeal
 5 the disciplinary action under the procedure set forth in a
 6 personnel policy adopted by a rule of the commission. The rule
 7 must provide that, if the result of the decision reached in the
 8 appeal is not agreeable to the employee, the employee may
 9 institute a civil action to appeal the disciplinary action. The
 10 preferred venue for the civil action is in the county in which the
 11 employee is employed.

12 (e) If the employee prevails in a civil action brought under
 13 subsection (d), the court shall allow the employee reasonable
 14 attorney's fees, including litigation expenses, and costs."

15 Page 6, between lines 1 and 2, begin a new paragraph and insert:

16 "SECTION 26. [EFFECTIVE UPON PASSAGE] (a)
 17 Notwithstanding IC 9-15-2-3, as added by this act, the bureau of
 18 motor vehicles commission shall adopt a personnel policy that
 19 includes a disciplinary procedure described in IC 9-15-2-3(d), as
 20 added by this act. The policy must provide that, if the result of the
 21 decision reached in the appeal is not agreeable to the employee,
 22 the employee may institute a civil action to appeal the disciplinary
 23 action. The bureau of motor vehicles commission shall carry out
 24 the duties imposed on it by IC 9-15-2-3, as added by this act,
 25 under interim written guidelines approved by the bureau of motor
 26 vehicles commissioner.

27 (b) This SECTION expires on the earlier of the following:

28 (1) The date rules are adopted under IC 9-15-2-3, as added by
 29 this act.

30 (2) January 1, 2005."

31 Renumber all SECTIONS consecutively.

(Reference is to ESB 395 as printed February 13, 2004.)

Representative Liggett